

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HAI VINH VO,

Plaintiff,

v.

CAROLYN W. COLVIN,

Defendant.

CASE NO. C16-0488JLR

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the court on the report and recommendation of United States Magistrate Judge Brian A. Tsuchida (R&R (Dkt. # 18)) and Plaintiff Hai Vinh Vo's objections thereto and motion for oral argument (Obj. (Dkt. # 19)). Having reviewed the foregoing documents, along with all other relevant documents and the applicable law, the court DENIES Mr. Vo's motion for oral argument, ADOPTS the report and recommendation, AFFIRMS Defendant Commissioner Carolyn W. Colvin's final decision, and DISMISSES this case with prejudice.

I. BACKGROUND

Mr. Vo applied for and was denied disability insurance benefits. (*See*

1 Administrative Record (“AR”) (Dkt. # 11) at 13.) After his application was denied, he
2 requested a hearing before an administrative law judge (“ALJ”) . (*Id.*) The ALJ
3 conducted a hearing and found that Mr. Vo was not disabled. (*See id.* at 13-25.) Mr. Vo
4 sought review of that decision within the agency, and the Appeals Council denied his
5 request for review. (*See id.* at 1-7.) He then appealed to this court. (*See* Compl. (Dkt.
6 # 1).) Magistrate Judge Tsuchida issued a report and recommendation, in which
7 Magistrate Judge Tsuchida recommends that this court affirm the ALJ’s decision and
8 dismiss the case with prejudice. (*See* R&R.)
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10 **II. STANDARD OF REVIEW**

11 A district court has jurisdiction to review a magistrate judge’s report and
12 recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). “The district judge
13 must determine de novo any part of the magistrate judge’s disposition that has been
14 properly objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole
15 or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.
16 § 636(b)(1). The court reviews de novo those portions of the report and recommendation
17 to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d
18 1114, 1121 (9th Cir. 2003) (en banc).
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20 **III. DISCUSSION**

21 Mr. Vo argues that Magistrate Judge Tsuchida incorrectly found Mr. Vo to be
22 capable of performing work as an assembler. (*See* Obj. at 1-8.) Specifically, Mr. Vo
23 argues that the ALJ did not account for the testimony and analysis of vocational expert

1 John Berg. (*See id.*) This argument simply repeats one of the arguments Mr. Vo made in
2 his briefing to Magistrate Judge Tsuchida. (*See Op. Br.* (Dkt. # 13) at 6-7, 11, 13.)
3 Magistrate Judge Tsuchida noted that the ALJ accounted for Mr. Berg's opinion and
4 found that it should be given very little weight. (*See R&R* at 8 (*citing* AR at 24).) The
5 ALJ gave Mr. Berg's opinion little weight because Mr. Berg did not consider all of the
6 medical evidence and therefore determined that Mr. Vo was unable to perform work as
7 an assembler based on a different residual functional capacity than that assessed by the
8 ALJ. (*See AR* at 24.) Magistrate Judge Tsuchida found that the ALJ's finding was
9 supported by substantial evidence and that Mr. Vo did not meet his burden of proving
10 harmful error. (*See R&R* at 8-9.) The court has examined the record and finds
11 Magistrate Judge Tsuchida's reasoning persuasive.
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13 Mr. Vo also moves for oral argument. (*See Mot.* (Dkt. # 19-1) at 1.) Because Mr.
14 Vo simply raises arguments in his objections that were already made in his briefing to
15 Magistrate Judge Tsuchida, the court finds no reason to depart from the court's normal
16 practice the issues on the pleadings. *See* Local Civil Rule 7(b)(4).

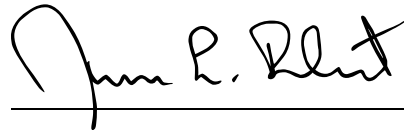
17 IV. CONCLUSION

18 For the foregoing reasons, the court hereby ORDERS as follows:

- 19 (1) The court DENIES the motion for oral argument;
20 (2) The court ADOPTS the report and recommendation;
21 (3) The court AFFIRMS the Commissioner's final decision and DISMISSES
22 this case with prejudice; and
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1 (4) The clerk shall direct copies of this Order to all counsel of record and to
2 Magistrate Judge Tsuchida.

3 DATED this 28th day of October, 2016.
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7 JAMES L. ROBART
8 United States District Judge
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